

**Senate Select Committee on School Safety Hearing on
“Sexual Orientation, Gender Identity Discrimination and School Safety”
Plummer Park- Fiesta Hall, West Hollywood
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**Testimony of Karen Humphrey, Administrator, Office of Workforce Development,
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Comments on AB 537 Implementation

- Thank you, Senator Kuehl and distinguished panelists, for inviting me to participate today. I’m Karen Humphrey, and I administer the Office of Workforce Development in the High School Leadership Division of the California Department of Education. I often like to say, “I’m from the state and I’m here to help”—but it is apparent from today’s testimony that we may not be able to help enough.
- My office is responsible for educational equity compliance within the department’s Coordinated Compliance Review Process. Dr. Mary Gallet, our equity consultant, coordinates 20 on-site reviews of local educational agencies every year for compliance with federal and state educational equity law.
- This began in 1994 as a state-mandated gender equity review process. This year, it has expanded to cover all areas of civil rights protection, but all the original gender equity review items remain part of the compliance instrument.
- My office also worked with other CDE staff who supported the AB 537 Task Force in its work, and provided an overview to that group of the compliance process.
- The compliance instrument is the basic document that districts use to see how well their policies, procedures and practices comply with the law. As soon as the regulations that implemented AB 537 were adopted, we added the terms “sexual orientation” and “sex” to the instrument. But we actually began to inform school districts of the change as soon as AB 537 was actually signed into law, long before the regulations that implement the law were finished.
- In fact, the consultant who began the gender equity reviews in 1994, and those of us who have worked on them since, actually worked with school districts even before AB 537 to help them understand that harassment based on sexual orientation is as wrong as all other forms of sexual harassment. No district was actually cited for failing to address such harassment, but CDE reviewers attempted to provide technical assistance and guidance to districts to help sensitize them about the issue even before it was the law.
- The CCR process is a two-year cycle that every local educational agency in California goes through every four years. The designated districts use the CCR instrument for self-review in the first year of that cycle; in the second year, CDE sends teams of reviewers to every district to validate the self-reviews. Some programs do not have enough staff to

visit every district—including educational equity. We join those teams in 20 reviews a year.

- Before the self-review, CDE holds training institutes for all the districts that are beginning the CCR cycle. Because every district must include the educational equity review in its self-review process, many of them attend the equity training at the institutes, even if they are not scheduled for an on-site review. So we are able to provide some training to a great many districts, even those we will not be visiting.
- I want to be clear: while CDE can do validation visits on educational equity in only 20 districts a year, that is not all we do on equity compliance. As I said, each year, over 250 districts—about one-fourth of the state’s school districts and county offices—must do the self-reviews on all items in the educational equity instrument for each school in their jurisdiction. Over a four-year period, every LEA in California will at least have looked internally at its compliance with educational equity law.
- The self-review process often does find items out of compliance, and the agencies usually correct them by the time they receive a visit. But in many circumstances, our review finds items that are not identified by the districts in the self-reviews.
- For those districts that we are able to visit for an on-site review in the second year of the cycle, educational equity is a huge area to cover. In only two or three days in a district, it is difficult to establish absolutely that all the rights of all students, including those of gay, lesbian, bisexual and transgender students, are fully protected.
- We do find and cite a number of items of “paper” noncompliance; some districts still have not updated their policies and complaint procedures to take sexual orientation and the new definitions of sex and gender into account. But when it comes to actual evidence that gender-based harassment and “gay-bashing” are a substantive problem, it’s usually hard to find enough evidence to cite beyond the technical violations, even though we try to spend considerable time talking to students and staff about what the real situation is on the school sites, and we closely analyze whatever data we can find. (If we do find evidence of substantive violations, we do cite them, but we don’t often find it.)
- Based on the overall results of the CCRs, it appears that districts are either not experiencing many instances of sexual or other gender-based harassment or, as has been established by the testimony we are hearing, they simply have not yet developed effective systems to bring them to light, investigate them and produce reports that can be reviewed. We often are told that complaints of harassment are few and far between, as are investigations. While we know that some problems are going unreported and unaddressed, we have no way to prove it. We do try to do enough technical assistance to help strengthen the school’s awareness of problems that are, or may become, noncompliant.
- I know there is considerable confusion still about the new wording in the law around “sex” and “gender” and what that requires. Mary Gallet tells me that she receives many

questions about the way in which they are to be treated, telling us there is a learning process still underway.

- In our training and visits, we try to help the affected districts understand that the issue is not just about protecting students against harassment based on their real or perceived sexual orientation, but on other gender issues, including transgender issues. Educators need to know about the ways some kids self-identify; they have to be aware of how kids perceive others who don't fit stereotypical gender images and how they treat them; and they have to learn to be sensitive to, and intervene in, behavior that leads to or actually constitutes harassment.
- Except very occasionally, CDE does not provide systematic technical assistance or professional development on these topics outside of the CCR Institutes and the CCR Reviews themselves. We have no staff to do that, although my equity consultant, Mary Gallet, occasionally offers extra help to a district on an ad hoc basis.
- But overall, we do not have the capacity to be pro-active. We can deal with the CCR content and general strategies for schools to implement them, and we do as much technical assistance as we can—especially Dr. Gallet, who is stretched pretty thin. But the CCR process alone, as is obvious, does not create an inclusive environment or guarantee that there are no areas of noncompliance, especially since we do not visit all schools in a district at the time.
- In the CCR visits, we do try to spend considerable time talking to the responsible district staff to help them understand their affirmative responsibility to deal with sexual harassment, including harassment based on sexual orientation or gender identity, and to make sure it is reported, investigated and, if appropriate, punished. Our goal is to stop that kind of harassment.
- I am sure more of it is happening than we can find out in our CCRs, but I hope our presence in the district for those CCRs has some beneficial effect. Certainly we try to link LEAs—not just those we visit but others as well—with whatever resources we know of that can help them address their own issues.
- The CCR process is one effective tool to help support AB 537—because it gives us the ability to tell districts what they must do and to hold them to it. We believe it will have some impact over time in improving the situation. But CCRs can only go so far. We need to prevent these violations altogether.
- CDE does have one other function when we do not prevent these violations. We have some reactive capacity in our Office of Equal Opportunity that investigates and resolves complaints that are appealed to CDE when the district's response is not satisfactory. Toni Valadez from that office is present today to listen; both of us are happy to be resources to you in the future.
- A truly comprehensive effort would involve considerable technical assistance and professional development, and as I said, CDE has no capacity to offer that beyond what

we do in the context of the CCR process. It would require considerably more staff and resources than we have available to expand those activities.

- We really need to change the culture, particularly in communities where there is resistance to the new law, that's a lengthy process that requires more than we have at the department. I hope whatever strategies your committee looks at will help mobilize the community as a whole, along with state and local educators, to do a better job.
- Everybody who goes on a school campus knows there is harassment based on gender, including harassment based on real and perceived gender identification. Catching and stopping it is one thing, and it is an important priority. Preventing it altogether is even more important.
- Our challenge is to help school districts understand this issue as simply one more piece of a commitment to assure equal education for all students. Whatever you can do to help increase the knowledge and capacity of educational agencies to do that will be a step in the right direction.